

§ 2200.94 Stay of final order.

(a) *Who may file.* Any party aggrieved by a final order of the Commission may, while the matter is within the jurisdiction of the Commission, file a motion for a stay.

(b) *Contents of motion.* Such motion shall set forth the reasons a stay is sought and the length of the stay requested.

(c) *Ruling on motion.* The Commission may order such stay for the period requested or for such longer or shorter period as it deems appropriate.

§ 2200.95 Oral argument before the Commission.

(a) *When ordered.* (1) Upon motion of any party, or upon its own motion, the Commission may order oral argument. Normally, motions for oral argument shall not be considered until after all briefs have been filed.

(2) The Commission may designate specific issues to be addressed.

(3) Except under extraordinary circumstances, oral argument shall be held at a location in Washington, DC.

(b) *Notice of argument.* The Executive Secretary shall advise all parties whether oral argument is to be heard. Within a reasonable time before the oral argument is scheduled, the Executive Secretary shall inform the parties of the time and place therefor, the issues to be heard, and the time allotted to the parties.

(c) *Postponement.* (1) Except under extraordinary circumstances, a request for postponement must be filed at least seven days before oral argument is scheduled.

(2) The Executive Secretary shall notify the parties of a postponement in a manner best calculated to avoid unnecessary travel or inconvenience to the parties. The Executive Secretary shall inform all parties of the new time and place for the oral argument.

(d) *Order and content of argument.* (1) Counsel shall be afforded such time for oral argument as the Commission may provide by order. Requests for enlargement of time may be made by motion filed reasonably in advance of the date fixed for the argument.

(2) The petitioning party shall argue first. If the case is before the Commission on cross-petitions, the Commis-

sion will inform the parties in advance of the order of appearance.

(3) Counsel are expected to cover all anticipated issues in their arguments in chief. Therefore, rebuttal will normally not be allowed. Should unexpected matters arise, the Commission, in its discretion, may give counsel additional time.

(4) Oral argument should undertake to emphasize and clarify the written arguments appearing in the briefs. The Commission will look with disfavor on any oral argument that is read from a previously filed document.

(5) At any time, the Commission may terminate a party's argument or interrupt the party's presentation for questioning by the Commissioners.

(e) *Failure to appear.* Should either party fail to appear for oral argument, the party present may be allowed to proceed with its argument.

(f) *Consolidated cases.* Where two or more consolidated cases are scheduled for oral argument, the consolidated cases shall be considered as one case for the purpose of allotting time to the parties unless the Commission otherwise directs.

(g) *Multiple counsel.* Where more than one counsel argues for a party to the case or for multiple parties on the same side in the case, it is counsels' responsibility to agree upon a fair division of the total time allotted. In the event of a failure to agree, the Commission will allocate the time. The Commission may, in its discretion, limit the number of counsel heard for each party or side in the argument. No later than 3 days prior to the date of scheduled argument, the Commission must be notified of the names of the counsel who will argue.

(h) *Exhibits/visual aids.* (1) The parties may use models, specimens, samples, charts or exhibits introduced into evidence at the hearing. If a party wishes to use a visual aid not part of the record, written notice of the proposed use shall be given to opposing counsel 15 days prior to the argument. Objections, if any, shall be in writing, served on all adverse parties, and filed not fewer than five days before the argument.

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(2) No visual aid shall introduce or rely upon facts or evidence not already part of the record.

(3) If visual aids or exhibits other than documents are to be used at the argument, counsel shall arrange with the Executive Secretary to have them placed in the hearing room on the date of the argument before the Commission convenes.

(4) Parties using visual aids not introduced into evidence shall have them removed from the hearing room unless the Commission directs otherwise. If such visual aids are not reclaimed by the party within a reasonable time after notice is given by the Executive Secretary, such visual aids shall be disposed of at the discretion of the Executive Secretary.

(i) *Recording oral argument.* (1) Unless the Commission directs otherwise, oral arguments shall be electronically recorded and made part of the record. Any other sound recording in the hearing room is prohibited. Upon leave of the Commission, any party, at its own expense, may arrange for a qualified court reporter to be present and to report and transcribe oral arguments. A copy of the transcript shall be provided to the Commission by the ordering party and shall be filed with the Executive Secretary.

(2) Persons desiring to listen to the recordings shall make appropriate arrangements with the Executive Secretary.

(j) *Failure to file brief.* A party who fails to file a brief shall not be heard at the time of oral argument except by permission of the Commission.

(k) *Participation in oral argument by amicus curiae.* (1) An amicus curiae will not be permitted to participate in oral argument without leave of the Commission upon proper motion.

(2) A motion by amicus curiae seeking leave to participate in oral argument shall be filed no later than 14 days prior to the date oral argument is scheduled.

(3) The motion of an amicus curiae for leave to participate at oral argument shall identify the interest of the applicant and shall state the reason(s) why its participation at oral argument is desirable.

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(4) Motions in opposition to the motion of an amicus curiae for leave to participate in the oral argument must be filed within 7 days of the date of the motion.

[55 FR 22783, June 4, 1990, as amended at 57 FR 41688, Sept. 11, 1992]

§ 2200.96 Commission receipt pursuant to 28 U.S.C. 2112(a)(1) of copies of petitions for judicial review of Commission orders when petitions for review are filed in two or more courts of appeals with respect to the same order.

The Commission officer and office designated to receive, pursuant to 28 U.S.C. 2112(a)(1), copies of petitions for review of Commission orders, from the persons instituting the review proceedings in a court of appeals, are the Executive Secretary and the Office of the Executive Secretary at the Commission's office, One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3419. Five copies of the petition shall be submitted pursuant to this section. Each copy shall state that it is being submitted to the Commission pursuant to 28 U.S.C. 2112 by the persons or person who filed the petition in the court of appeals and shall be stamped by the court with the date of filing.

NOTE: 28 U.S.C. 2112(a) contains certain applicable requirements.

[54 FR 18491, May 1, 1989, as amended at 58 FR 26065, Apr. 30, 1993]

Subpart G—Miscellaneous Provisions

§ 2200.100 Settlement.

(a) *Policy.* Settlement is permitted and encouraged by the Commission at any stage of the proceedings.

(b) *Requirements.* The Commission does not require that the parties include any particular language in a settlement agreement, but does require that the agreement specify the terms of settlement for each contested item, specify any contested item or issue that remains to be decided (if any remain), and state whether any affected employees who have elected party status have raised an objection to the reasonableness of any abatement time. Unless the settlement agreement